

EXHIBIT 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

SCOTT T. BALLOCK,

Plaintiff,

v.

CIVIL ACTION NO.: 1:17-CV-52
Honorable Irene M. Keeley

ELLEN RUTH COSTLOW,
STATE TROOPER MICHAEL KIEF,
STATE TROOPER RONNIE M.
GASKINS, AND STATE TROOPER
CHRIS BERRY,

Defendants.

**STATEMENT IN SUPPORT OF RENEWED MOTION TO REQUIRE PLAINTIFF TO
RELEASE EXPUNGED RECORDS, OR IN THE ALTERNATIVE, TO PROHIBIT
PLAINTIFF FROM PRESENTING EVIDENCE OF HIS ARREST AND PROSECUTION**

In the spirit of Local Rule of Civil Procedure 37.02, the undersigned counsel submits the following statement in support of “Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins, and State Trooper Chris Berry’s Renewed Motion to Require Plaintiff to Request Release of Expunged Records, or in the Alternative, to Prohibit Plaintiff from Presenting Evidence of His Arrest and Prosecution”:

(1) This motion does not seek to compel a response to a discovery request or disclosure requirement.

(2) The following authority, among others, supports the movant’s position:

- a. Federal Rule of Civil Procedure 83(b);
- b. Federal Rules of Evidence 102, 106;
- c. the inherent power of the Court to control discovery, as recognized in *Goodyear Tire & Rubber Co. v. Haeger*, 137 S. Ct. 1178, 1186 (2017); *United States v.*

Moussaoui, 483 F.3d 220, 236 (4th Cir. 2007); *G. Heileman Brewing Co. v. Joseph Oat Corp.*, 871 F.2d 648, 651-52 (7th Cir. 1989) (en banc); and *Johnson v. Kraft Foods N. Am., Inc.*, 236 F.R.D. 535, 540 (D. Kan. 2006), among other cases.

(3) Mark G. Jeffries, counsel for the State Police Defendants, attempted to confer with Frederick R. Juckniess and Charles J. Crooks, counsel for Plaintiff, via letter sent on March 8, 2016, attached as “Exhibit 1” to the present Motion. After Plaintiff agreed to request his expunged records, the undersigned counsel attempted to confer with Plaintiff’s counsel on this issue by e-mail on May 11, 2018, July 2, 2018, July 10, 2018, and August 10, 2018. The undersigned counsel also conferred with Frederick R. Juckniess about this issue by telephone on July 10, 2018.

Dated this 15th day of August 2018.

Respectfully submitted,

/s/ Mark G. Jeffries

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